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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,601	06/26/2003	Richard W. Gross	15060-40	5014

7590

05/05/2006

Patrick W. Rasche  
Armstrong Teasdale LLP  
Suite 2600  
One Metropolitan Square  
St. Louis, MO 63102

EXAMINER

COLE, MONIQUE T

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/606,601

Applicant(s)

GROSS ET AL.

Examiner

Monique T. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 19-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Those persons making the oath or declaration should acknowledge the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56. *This may include, but is not limited to, prior publication, knowledge, patents, foreign patents, etc.* See *Dayco Prod., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 1365-69, 66 USPQ2d 1801,1806-08 (Fed. Cir. 2003) (contrary decision of another examiner reviewing substantially similar claims is material; copending application may be material even though it cannot result in a shorter patent term, when it could affect the rights of the patentee to assign the issued patents). See also *KangaROOS U.S.A., Inc. v. Caldor, Inc.*, 778 F.2d 1571, 1576, 228 USPQ 32, 35 (Fed. Cir. 1985).

#### *Election/Restrictions*

1. Applicant's election with traverse of Group I in the reply filed on 2/10/2006 is acknowledged. The traversal is on the ground(s) that there would be no burden on the Examiner. This is not found persuasive because the additional groups would require additional search not required for the other groups.

**The requirement is still deemed proper and is therefore made FINAL.**

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claim recites the listing of blood, serum, tissue biopsy, feces and urine samples. It is not clear whether it is applicant's intention for all of these samples to be present or just one. If it is applicant's intent for a selection to be made, the claim is in improper Markush form and should be drafted in accordance with the guidelines set forth in the MPEP.

3. Claims 4 and 10 recites the limitation "TG." There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Han et al.

"Electrospray ionization mass spectroscopic analysis of human erythrocyte plasma membrane phospholipids" (herein referred to as "Han"), Proc. Natl. Acad. Sci, Vol. 91, 10635-10639, (1994).

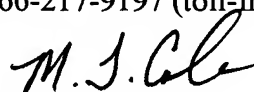
Han teaches electrospray ionization mass spectrometry utilized for the structural determination and quantitative analysis of phospholipids molecular species from human erythrocyte plasma membrane phospholipids. This can be performed directly from chloroform extracts of biologic samples. See abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique T. Cole whose telephone number is 571-272-1255. The examiner can normally be reached on Monday, Tuesday & Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique T. Cole  
Primary Examiner  
Art Unit 1743

mtc